

## **REMARKS**

In view of the restriction requirement discussed below, Applicants have canceled Claims 17, 19, 22, 23, and 24 and have amended Claims 13-16.

### **Restriction Requirement under 35 U.S.C. 121**

Applicants note at the outset that the Office Action has objected to Claims 13-18 and 20 as containing non-elected subject matter. In view of the amendments shown above and the following remarks, Applicants respectfully request consideration of the claims as amended.

The Office Action indicates at pages 3 and 5 that the subject matter under consideration include compounds of formula (I) in which  $R^1$ ,  $R^2$ ,  $R^3$ , and  $R^{3B}$  are as defined in the respective claims and in which  $R^4$  and  $R^{4B}$  represent alkyl groups. Applicants note in this regard that the elected species represented by the compound of Example 6 (see Table 1 at page 28), in which  $R^1$  is  $CF_3$ ,  $R^2$  is hydrogen,  $R^3$  is  $CH_3$ , and  $R^4$  is  $-CH_2-O-CH_3$ . That is,  $R^4$  is not simply alkyl but is alkoxyalkyl. In view of the structural relatedness of alkyl, alkoxyalkyl, and haloalkyl groups and in view of the excellent biological properties reported in the use examples for compounds in which  $R^4$  is both alkyl and alkoxyalkyl (particularly in Tables D and E), Applicants submit that no undue burden on examination would be imposed and have amended their claims accordingly.

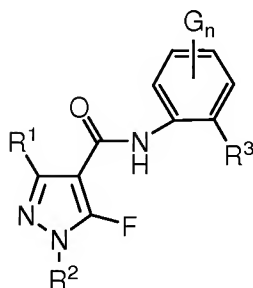
Applicants note also that they have provided data for a compound in which  $R^4$  is  $-C(=O)C(=O)-OCH_3$  (see Tables A, B, and C) and that the Office Action did not withdraw Claim 18, which is directed to such compounds, from consideration. Applicants have therefore retained the  $-C(=O)C(=O)R^5$  group within the definition of  $R^4$  but would be willing to delete such compounds from the claimed subject matter upon the Examiner's indication that Claim 18 was inadvertently not withdrawn.

Applicants in any case respectfully request rejoinder of the claimed subject matter that has been indicated above as being withdrawn. Applicants reserve the right to file one or more divisional applications directed to non-elected subject matter.

### **Rejection under 35 U.S.C. 103**

Claims 13-18 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DE 10136065 by Elbe et al ("the '065 publication") (which is a German language document corresponding to published US 2004/0204470, listed in Applicants' Form PTO 1449). Applicants respectfully traverse.

The '065 publication discloses pyrazolylcarboxanilides having the formula



in which **R**<sup>1</sup> is hydrogen, cyano, halogen, nitro, (halo)alkyl, cycloalkyl, (halo)alkoxy, (halo)alkylthio, or aminocarbonylalkyl; **R**<sup>2</sup> is hydrogen, (halo)alkyl, alkenyl, cycloalkyl, (halo)alkylthioalkyl, or (halo)alkoxyalkyl; **R**<sup>3</sup> is unsubstituted C<sub>2</sub>-C<sub>20</sub>-alkyl, C<sub>1</sub>-C<sub>20</sub>-alkyl that is mono- or polysubstituted by halogen or cycloalkyl, or optionally halogen- or cyclohexyl-substituted alkenyl or alkynyl; **G** is halogen or alkyl; and **n** is 0, 1, or 2. E.g., '065 publication at page 1, line 16, through page 2, line 17. The '065 publication does not disclose or suggest compounds in which the bridging amide nitrogen atom bears a substituent other than hydrogen.

Applicants claimed compounds, in contrast, are characterized by an alkyl, alkoxyalkyl, haloalkyl, or diketo substituent **R**<sup>4</sup> on the bridging amide nitrogen atom. Notwithstanding the assertion in the Office Action at page 5, Applicants respectfully submit that the Office Action has not established a prima facie case of obviousness for their claimed N-substituted compounds.

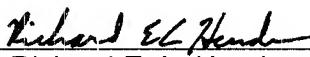
#### Double Patenting Rejection

Claims 13-18 and 20 stand rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over Claims 22-35, 37, and 46 of copending published US 2004/0204470 (which, as noted above, is a counterpart of DE 10136065). Applicants respectfully traverse.

For essentially the reasons discussed above with respect to the obviousness rejection based on the German counterpart DE 10136065, Applicants submit that their claims are directed to non-obvious subject matter and are thus patentably distinct from US 2004/0204470. Applicants therefore do not at this time offer to submit a terminal disclaimer as kindly suggested in the Office Action.

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

Respectfully submitted,

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Q:patents/prosecution documents/cs8775/8775 amendment 1-20-10